

REMARKS

This Amendment is responsive to an Office communication mailed 7/21/2010. A partially-responsive Letter dated 7/25/10 and filed 7/29/10, was apparently not answered by the Examiner.

The above recited claims 21-42 and 44-51 are pending in the application. All stand rejected. An amendment to claim 38 corrects an informality. A new reference, 2,108,652, issued Feb. 15 1938 to Henri Coanda, was cited. The reference is not seen as compensating for any of the deficiencies of the prior art previously cited.

Applicant had appealed to the Board of Patent Appeals and Interferences from the decision dated 9/18/08 of the Examiner finally rejecting claims 21-42 and 44-51 of the application; and from the Examiner's refusal, per the Advisory Acton mailed 11/6/08 to enter the amendments proposed in the Amendment After Final dated October 23, 2008 and filed October 27, 2008 and to allow the application.

The claims presented herein are the claims presented in the CORRECTED COPY OF CLAIMS dated August 27, 2009 and filed August 31, 2009, and distinguish over the art as indicated below. (Claim 38 was corrected to change "board" to -wing section—in view of its antecedent, as was proposed to the Examiner in the penultimate comment on page 3 of the CORRECTED COPY OF CLAIMS dated August 27, 2009.)

The Examiner in all of her rejections of all of the claims, relies on Woolley (5,100,354) as her basic reference. Woolley teaches a water sports device or flying ski 11 including an elongate board 13 to which a seat 23 (for a tow-rope holding rider 24) and footholder 25 are secured, and an elongate arm 29 extending downward from the board, and a planing blade 37 secured to the arm generally parallel to the board so that the planning blade provides essentially no lift when the board is horizontal. "By inclining the board 13 backward, the rider is able not only use the board 13 as a planing surface, but to use the force of the water on the lower surface of the large planning blades to

easily lift the board 13 above the surface of the water so that the only portion of the flying ski 11 in the water is the planing blade structure.” (col. 8, lines 60-65)

Thus, it is evident that at least so far in its use that we have considered, the “wing” of the Woolley product does not derive “its lift in flight from the reaction forces resulting from its motion through air”!

And it is also evident that further in its use, the “wing” of the Woolley product does not derive “its lift in flight from the reaction forces resulting from its motion through air”!

Certainly not from the forces working on the strut 29 supporting the flying ski on the planing blade 37. For Woolley states (col. 9, lines 16-180): “Another important aspect of the invention is that the strut 29 is designed to effectively eliminate its contribution to the lifting force on the flying ski 11.”

Nor from the planing blade 37. While it is true that Woolley claims the his flying ski 11 design is also particularly adapted to enable the rider to perform exceptional jumps, a rider does so “by abruptly leaning backward” to “launch him or herself and the flying ski six or eight feet into the air” (col. 10, lines 28-30). Now Funk and Wagnalls “College ‘Standard’ Dictionary of the English Language, Copyright 1946, defines “jump, v. II. i. 1. To impel oneself through the air by a spring”. Woolley achieves the effect of a “spring” by the reaction of the water on the lower side of the planing blade 37 upon the abrupt leaning backward of the rider. The water’s reaction on the lower side of the suddenly tilted planing blade 37 of the Woolley product causes the product to jump out of the water, not any reaction forces resulting from its motion through air!

The Woolley product just does not teach deriving “lift in flight from the reaction forces resulting from its motion through air”!

Claims 21-34, 36-38, 40-42 were “rejected under 35 USC 103(a) as being unpatentable over Woolley in view of Saghri (US Patent 5,498,184)”. The Examiner stated, inter alia: “The device of Woolley reads on the limitations of the claimed invention including: Regarding claims 1 and 38, --- a first section constituting the wing (fig. 9) of the product and deriving its lift in flight from forces resulting from its motion through air ---“. As indicated above there is no teaching in Woolley that the planning blade 37 derives its “lift in flight from the reaction forces resulting from its motion through air”!

The Examiner observed: “It should be noted that depending on the bottom shape/structure of the fin, airflow is created on the top and bottom of the fin causing a positive or negative lift. Therefore, the examiner takes the position the wing section (fig. 9) will derive its lift in flight from reaction forces.” Applicant urges that whether or not airflow is created on the top and bottom of the fin causing a positive or negative lift, this occurs during a “jump” when the wing section is not deriving its lift from reaction forces “resulting from its motion through air” but rather from inertial forces that caused the “jump”. Thus Woolley does not provide all of the structure required by the claims, and fails as a reference.

Nor is this deficiency in Woolley supplied by Saghri. Saghri discloses a body board having a hydrodynamic propulsion surface. A pair of extensions coupled to a body member provide a rearward-facing surface that faces away from the stern of the body member so that the force of fluid delivered against the rearward-facing surface propels the body board. Saghri’s body member does not derive its “lift in flight from the reaction forces resulting from its motion through air”. Thus the deficiency in Woolley is not supplied by Saghri.

Independent claim 21 and its dependent claims 22-27 require “a first section constituting the wing of the product and *deriving its lift in flight from the reaction forces resulting from its motion through air*”. Independent claim 28 and its dependent claims 29-33 require in “A board usable as a fuselage or tail section of a recreational product for

skimming on water and flying the product *derives its lift in flight from the reaction forces resulting from its motion through air aerodynamically*", "thin fins extending --- c) longitudinally from a surface of the wider rear end and the thin fins are upwardly when the board is attached to the recreational product for aiding control *when the product is in motion through air aerodynamically*". Dependent claims 36 and 37 (through their base and independent claim 34) require in a "A device comprising a thin, wide body usable as *a reaction-force aerodynamically-supporting wing of a waterborne and airborne recreational vehicle*". Independent claim 38 and its dependent claims 40-42 require "A rider recreational product having a wing and a fuselage or tail section for skimming on water and flying through the air aerodynamically and separable into two sections, comprising a first section constituting *the wing of the product when the board is attached to the recreational product and deriving its lift in flight from the reaction forces resulting from its motion through air*". Independent claim 44 and its dependent claims 45-51 require "A rider recreational product having wings for skimming on water and flying through air aerodynamically comprising first parts constituting the wings of the product and *deriving its lift in flight from the reaction forces resulting from its motion through air*". The italicized portions highlight requirements not met by Woolley or the other references.

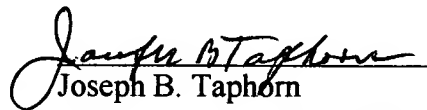
Hence claims 21-34, 36-38, 40-42 were improperly rejected under 35 USC 103(a) as being unpatentable over Woolley in view of Saghri, and the rejection should be withdrawn and the claims allowed.

Claims 35 and 39 were rejected as being unpatentable over Woolley in view of Schlueter (3,320,625), the Examiner alleging that "Woolley teaches most of the elements of the claimed invention ...". Claims 35 and 39 are dependent claims, and as noted above, Woolley does not teach all of the elements of the claimed invention. Thus dependent claims 35 and 39 are patentable, not only for their additional limitations, but also for the limitations recited in the basic claims 34 and 38, respectively.

Applicant believes that he is the first one to invent a rider recreational product having a wing section and a fuselage or tail section for skimming on water and flying through the air aerodynamically, that is separable into two sections comprising a first section constituting the wing of the product and deriving its lift in flight from the reaction forces resulting from its motion through air and independently usable as a rideable element, and a second section constituting the fuselage or tail section of the product and independently usable as a surfboard or ski. The claims reflect different aspects of the new invention.

Wherefore applicant believes that this application has been placed in condition for allowance, which favorable action at an early date is earnestly solicited.

Respectfully submitted,



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CERTIFICATE OF MAILING - The undersigned certifies that this correspondence addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Mail Stop AF, has been deposited in the United States Postal System as first class mail with sufficient postage on October 1, 2010.

